



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

September 27, 2018

Ms. Nicole Cohn
Drinker Biddle & Reath
105 College Road E Suite 300
Princeton, NJ 08542

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

RE: Freedom of Information Act Request EPA-HQ-2018-009812

Dear Ms. Cohn,

This is in response to your Freedom of Information Act (FOIA) letter requesting all policies, guidance, memoranda and analyses, existing at headquarters and/or in any of the regions addressing the useful product defense under CERCLA. You modified your request on August 24, 2018, limiting your request to responsive records for the specified sites listed in your email.

The Office of Site Remediation Enforcement (OSRE) has concluded its search for records responsive to your request. The Supreme Court case *Burlington Northern and Santa Fe Railway Co. et al v United States et al*, 129 S. Ct. 1870 (U.S. 2009) addressed arranger for disposal liability under Section 107(a)(3) of CERCLA. We are providing you with information on our materials that are publicly available on our web site related to this decision. The link below provides information on the decision and related materials:

<https://www.epa.gov/enforcement/case-summary-burlington-northern-v-united-states>.

Regional offices manage individual Superfund sites and generally rely on the policies and model documents when negotiating enforcement settlements. Thus, the URL provided above is likely the best repository for publicly available information on this matter. However, if you would like information related to a specific regional site, you will need to send a FOIA request to the appropriate regional office for any responsive records they may have.

This letter concludes our response to your request. You may appeal this response by email at hq.foia@epa.gov, or by mail to the EPA's National FOIA Office, U.S. EPA, 1200 Pennsylvania Avenue, N.W. (2310A), Washington, DC 20460 or through FOIAonline if you are an account holder. If you are submitting your appeal by hand delivery, courier service, or overnight delivery, you must address your correspondence to 1200 Pennsylvania Avenue, N.W., Room 5315, Washington, DC 20460. Your appeal must be in writing, and it must be received no later than 90 calendar days from the date of this letter. The Agency will not consider appeals *received* after the 90-calendar-day limit. Appeals received after 5:00 p.m. EST will be considered received the next business day. The appeal letter should include the FOIA tracking number listed above. For quickest possible handling, the subject line of your email, the appeal letter,

and its envelope, if applicable, should be marked "Freedom of Information Act Appeal." Additionally, you may seek dispute resolution services from EPA's FOIA Public Liaison at hq.foia@epa.gov or (202) 566-1667, or from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, Room 2510, 8610 Adelphi Road, College Park, MD 20740-6001; email, ogis@nara.gov; telephone, (202) 741-5770 or (877) 684-6448; or fax, (202) 741-5769.

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Should you have any questions concerning this matter, please feel free to contact Antoinette Powell-Dickson at (202) 564-5136.

Sincerely,



Benjamin Lammie
Deputy Division Director
Regional Support Division
Office of Site Remediation Enforcement